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SEP 27 2006

Remarks:

Reconsideration of the application, as amended herein, is respectfully requested.

Claims 15 - 32 are presently pending in the application.

Claims 9 - 11, 13 and 14 have been cancelled, herein. Claims 1 - 8 and 12 were previously canceled in response to an indication that claims 9 - 11 and 13 - 14 would be allowable, which indication was withdrawn in item 2 of the above-named Office Action. New claims have been added 15 - 32.

In item 4 of the Office Action, claims 9 - 11 were rejected under 35 U.S.C. § 103(a) as allegedly being obvious over U. S. Patent No. 5,923,624 to Groeger et al ("**GROEGER**") in view of U. S. Patent No. 6,823,225 to Sass ("**SASS**"), in view of In re Venner, 262 F. 2d 91, 95, 120 USPQ 193, 194 (CCPA 1958) ("**VENNER**"). In item 5 of the Office Action, claim 13 was rejected under 35 U.S.C. § 103(a) as allegedly being obvious over **GROEGER** and **SASS**, in view of U. S. Patent No. 6,111,963 to Thompson, III ("**THOMPSON**") and **VENNER**. In item 6 of the Office Action, claim 14 was rejected under 35 U.S.C. § 103(a) as allegedly being obvious over U. S. Patent No. 6,112,064 to Arrowsmith et al ("**ARROWSMITH**") in view of **SASS**.

Applicants respectfully traverse the above rejections, as applied to the new claims.

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More particularly, new independent claim 15 recites, among other limitations:

storing in the storage and playback device at least one prerecorded message and message particulars associated with the at least one prerecorded message;

. . . .

the microcontroller periodically causing the at least one prerecorded message to be played over the speaker connected to the radio, based on the stored message particulars associated with the at least one prerecorded message. [emphasis added by Applicants]

As such, Applicants' new claim 15 requires, among other limitations, the microcontroller to control the playing of the prerecorded message based on at least one stored message particular associated with the prerecorded message.

Similarly, Applicants' independent claim 31 recites, among other limitations:

upon determining that an RDS signal is present and detecting a regular programmed commercial in the received radio broadcast, automatically playing the at least one prerecorded message instead; and

otherwise periodically playing the at least one prerecorded message instead of the portion of the received radio broadcast based on at least one message particular stored in the radio with the at least one prerecorded message, the at least one message particular being associated with the at least one prerecorded message. [emphasis added by Applicants]

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Applicants' new claims 15 and 31 are supported by the specification of the instant application, for example, paragraph [0030] of the instant application, which states:

In use, a person or organization determines if his or its message is to be used with a radio having or not having an RDS. **Then the message to be played is determined along with the frequency, length of time, at what hour in the day, on which day or days, the message is to be played as well as any other particulars regarding the message. The message particulars are then programmed into the micro controller 11, and the storage and playback circuit 12.** One or more radios are provided with the programmed micro controller 11 and the audio IC 12 and distributed to one or more persons. The persons having the inventive radio then play the radio 10 as they would any other radio. **The prerecorded and stored message or messages will then be played back in accordance with the programmed particulars of the message or messages.** [emphasis added by Applicants]

However, Applicants' new claims 15 and 31, and the claims depending therefrom, are neither taught, nor suggested by the cited references. More particularly, neither **GROEGER**, nor **SASS**, teach or suggest associating and storing "**message particulars**" with a prerecorded message or the use, **by a microcontroller or otherwise, of the message particulars to determine** when to replay the prerecorded message.

Rather, **GROEGER** discloses requiring a user to **actuate a playback button 46** to replay information stored in memory 12. See, for example, col. 4 of **GROEGER**, lines 5 - 12, which state:

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Instead, operating part 4 can be attached to car radio 2 to reproduce the recorded audio signals using playback unit 10. For this purpose, when playback button 46 on operating part 4 is actuated, the output of recording unit 6 is connected via changeover switch 26 to playback unit 10 and the audio signal stored in memory 12 of recording unit 6 is played back. [emphasis added by Applicants]

See also, col. 3 of **GROEGER**, lines 1 - 10, which state:

In traffic radio decoder 24 connected to the output of demodulator 22, the demodulated signal is monitored for the occurrence of announcement identifiers and upon occurrence of such an identifier, the associated information is stored in a first area of memory 12 of recording unit 6 reserved for traffic information. By actuating a playback button 46 on operating part 4, the content of memory 12 can be output at any time via playback unit 10, memory 12 being connected via changeover switch 26 to playback unit 10 for this purpose. [emphasis added by Applicants]

Applicants note that col. 3 of **GROEGER**, lines 1 - 6 (quoted above) recite that "the demodulated signal is monitored for the occurrence of **announcement identifiers** and upon occurrence of such an identifier, the associated information is stored in a first area of memory 12 of recording unit 6 reserved for traffic information". As such, although **GROEGER** discloses storing audio information (i.e., the "associated information", which is replayed on the playback unit 10) based on a detected identifier, **GROEGER** fails to teach or suggest **storing the announcement identifiers**, itself, in the memory. Further, **GROEGER** fails to teach or suggest a microcontroller periodically causing the at least one prerecorded message to

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be played over the speaker connected to the radio, based on stored announcement identifiers or any other stored information associated with the stored traffic information.

Additionally, the **SASS** reference, cited in the Office Action in combination with **GROEGER**, fails to teach or suggest, among other limitations of Applicants' claims 15 and 31, periodically causing the at least one prerecorded message to be played over the speaker connected to the radio, based on the stored message particulars associated with the at least one prerecorded message, or a microprocessor using the stored message particulars to cause the playing of the prerecorded material as required by Applicants' claim 15. Although **SASS** discloses storing an access code (i.e., col. 11 of **SASS**, lines 16 - 17) or the receiver's network address or identification number (i.e., col. 8 of **SASS**, line 18), these are not Applicant's particularly claimed "message particulars", as they are associated with a receiver or a user and not with the prerecorded message, as required by Applicants' claim 15. Applicants' claim 15 requires, among other things, that the "message particulars" be "message particulars associated with the at least one prerecorded message". This is not the case in **SASS**. Rather, col. 8 of **SASS**, lines 16 - 19, state:

When a receiver communicates with server 14, server 14 can identify the receiver's geographic location **based on its network address or its identification number**

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**that is assigned to the receiver when the receiver is initially registered.** [emphasis added by Applicants]

See also, col. 11 of **SASS**, lines 14 - 40, which states:

The method would begin by identifying a user 200. This may be performed by receiver 12 by a number of different methods. For example, receiver 12 may require an access code to be entered by the user **that identifies the user or receiver 12 may detect the user from information on detachable memory device 36.**

Alternatively, the user may be assumed to be the person who is registered as the owner of receiver 12. The user's characteristics would then be identified 202. This may be performed by referencing **user characteristics** stored in data base 204. Data base 204 may comprise information and configuration manager 35, detachable memory device 36, memory 34, or memory 42 of server 14. User characteristics may include a large variety of information, such as age, sex, preferences, profession, income, residence, language, and interests.

Once the user's characteristics have been determined, **information that is relevant to the user is selected.** The information that is **relevant to the user** may be stored on data base 204 which may comprise memory 34, detachable memory device 36, or memory 42 of server 14. The information may include commercials, programs, news, weather, and system generated messages. If the selected information is stored in memory 42 of server 14, the information is transmitted to receiver 12 for storage or play. [emphasis added by Applicants]

**SASS** only teaches storing information relevant/identifying the user or the receiver, but **not** information associated with a prerecorded message. As such, as can be seen from **SASS**, like **GROEGER**, **SASS** fails to teach or suggest, among other limitations of Applicants' claims 15 and 31, **storing message particulars associated with the prerecorded message** and

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replaying the prerecorded message based on at least one of the stored message particulars.

As such, GROEGER and SASS, taken alone, or in combination, fail to teach or suggest Applicants' present claims 15 and 31.

As Applicants' claims 15 and 31 recites particular structure that, processes and/or determinations, upon which the determination to play the prerecorded message is based, it is believed that the VENNER case does not apply. More particularly, Applicants are not, merely, reciting a formerly manual process as now operating "automatically".

As such, Applicants' claims 15 and 31, and those claims depending therefrom, are believed to be patentable over GROEGER, SASS and VENNER, taken alone, or in combination.

The THOMPSON reference, cited in the Office Action in combination with GROEGER and SASS, against Applicants' former dependent claim 13, additionally fails to teach or suggest, among other limitations of Applicants' claims 15 and 31, storing message particulars associated with the prerecorded message and replaying the prerecorded message based on at least one of the stored message particulars. Rather, THOMPSON discloses sequential playback of audio messages when the

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ignition switch is initially turned on and subsequently when the transmission selector is moved in either direction from reverse gear, providing a five minute period had elapsed from the previous message. See, col. 1 of THOMPSON, lines 46 - 56. As such, since the playback of audio messages in THOMPSON is sequentially activated by physical events, there is no need in THOMPSON for the storage of Applicants' claimed message particulars and no teaching or suggestion to use Applicants' particularly claimed message particulars to determine when to replay a prerecorded message.

The ARROWSMITH reference, cited in the Office Action in combination with SASS against Applicant's claim 14, does not cure the above-discussed deficiencies of the GROEGER, SASS, and THOMPSON references. More particularly, ARROWSMITH additionally fails to teach or suggest, among other limitations of Applicants' claims, storing message particulars associated with a prerecorded message and replaying the prerecorded message based on at least one of the stored message particulars.

As such, Applicants' claims 15 and 31 are also believed to be patentable over GROEGER, SASS, VANNER, THOMPSON and ARROWSMITH, taken alone, or in combination.



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Applicants' dependent claims 16 and 32, further distinguish those claims from **GROEGER** by reciting, among other limitations, that:

**the stored message particulars include at least one of:**

- a) **how often** the at least one prerecorded message is to be played,
- b) **the length of time** for which the at least one prerecorded message is to be played,
- c) **the hour of day** at which the at least one prerecorded message is to be played, and
- d) **on which day or days** the at least one prerecorded message is to be played; [emphasis added by Applicants]

As such, Applicants' new claims 16 and 31 require, among other limitations, playing the prerecorded message **based on at least one stored message particular** associated with the prerecorded message; **wherein the message particular is at least one of, frequency of play, length of play time, the hour of day of play or which day(s) the message is to be played.** Neither **GROEGER**, nor **SASS** teach or suggest storing locally any of the above-specified types of message particulars associated with a prerecorded program, or even using such types of information to determine when to play the prerecorded messages.

None of the cited references **store** Applicants' particularly claimed "message particulars" of claims 16 and 32, or replay the prerecorded message based on at least one of Applicants'

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particularly claimed stored message particulars. **THOMPSON** and **ARROWSMITH** do not cure the above-disclosed deficiencies of the **GROEGER** and **SASS** references.

As such, Applicants' claims 16 and 31 are believed to be patentable over the cited references.

Further, Applicants' independent claim 24 is additionally believed to be patentable over the cited art. More particularly, Applicants' new claim 24 recites, among other limitations:

a storage and playback device connected between a demodulator and an audio amplifier of said radio; and

a timer to automatically initiate periodic playback of at least one prerecorded message by the storage and playback device. [emphasis added by Applicants]

Applicants' former claim 13 included similar limitations to those of present claim 24, among others. Page 5 of the Office Action stated, in connection with Applicants' former claim 13, in part:

Further, Groeger and Sass fails [sic] to specifically disclose a timer.

Rather, the Office Action uses **THOMPSON** in combination with **GROEGER** and **SASS** to allegedly disclose Applicants' claimed timer. Applicants respectfully disagree.

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More particularly, Applicants' invention of claim 24 requires, among other limitations, a timer to automatically initiate periodic playback of at least one prerecorded message by the storage and playback device. Contrary to Applicants' invention of claim 24, the THOMPSON reference discloses a timer for not initiating periodic playback of an audio message. Rather, as disclosed in THOMPSON, playback is automatically triggered by a physical event unless it occurs before expiration of the timer, in which case, the message is not played. This can be seen from col. 1 of THOMPSON, lines 52 - 56, which state:

In accordance with the present invention playback occurs when the vehicles ignition switch is initially turned on and subsequently when the transmission selector is moved in either direction from reverse gear; providing a five minute period had elapsed from the previous message. [emphasis added by Applicants]

This can be even more clearly seen from col. 4 of THOMPSON, lines 45 - 49, which states:

a trigger and retrigger holdoff circuit, connected to receive output signal from said input logic and filter circuit, to provide an output signal and suppress any additional said output signals for a finite period of time;

As such, although THOMPSON discloses a timer, it is not, as required by Applicants' claim 24, a timer to automatically initiate periodic playback of at least one prerecorded message

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by the storage and playback device. Rather, THOMPSON discloses initiating playback of an audio message in response to a physical action (i.e., ignition switch is turned on or gear shift moved) and a timer to suppress the playback of an audio message, in response to the physical action occurring within a finite period of time. At no time does the expiration of the timer in THOMPSON "automatically initiate periodic playback" (i.e., playback in THOMPSON is initiated by a physical action and suppressed by the timer) of at least one prerecorded message, as required by Applicants' claim 24.

The ARROWSMITH reference fails to cure the above-discussed deficiencies of the GROEGER, SASS and THOMPSON references, as applied to Applicants' independent claim 24. Additionally, as at least one physical element of Applicants' claim 24 is missing from the cited art (i.e., the references do not teach or suggest playback initiated by a timer, automatically or otherwise), it is believed that the VENNER case rejection has been mooted. As such, Applicants' independent claim 24, and claims depending therefrom, are additionally believed to be patentable over GROEGER, SASS, VENNER, THOMPSON and ARROWSMITH.

It is accordingly believed that none of the references, whether taken alone or in any combination, teach or suggest

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the features of claims 15, 24 and 31. Claims 15, 24 and 31 are, therefore, believed to be patentable over the art. The dependent claims are believed to be patentable as well because they all are ultimately dependent on claims 15, 24 or 31.

In view of the foregoing, reconsideration and allowance of claims 15 - 32 are solicited.

In the event the Examiner should still find any of the claims to be unpatentable, counsel would appreciate receiving a telephone call so that, if possible, patentable language can be worked out.

Additionally, please consider the present as a petition for a three (3) month extension of time, and please provide a three (3) month extension of time, to and including, September 27, 2006 to respond to the present Office Action.

The extension fee for response within a period of three (3) months for a small entity pursuant to Section 1.136(a) in the amount of \$510.00 in accordance with Section 1.17 is enclosed herewith.

Please provide any additional extensions of time that may be necessary and charge any other fees that might be due with

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respect to Sections 1.16 and 1.17 to the Deposit Account of  
Lerner Greenberg Stemer LLP, No. 12-1099.

Respectfully submitted,

  
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For Applicants

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September 27, 2006

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